

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1998 of 1995

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

=====

1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

-----

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

MY PATHAN

-----

Appearance:

MR PRANAV G DESAI for Petitioner

NOTICE SERVED for Respondent No. 1

-----

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 10/09/1999

ORAL JUDGEMENT

This petition was taken up for hearing on 27th August, 1999, 9th September, 1999 and 10th September, 1999 i.e. today. On neither of the aforesaid dates, the learned advocate Mr. Desai appearing for the petitioner has remained present. The respondent, though served, has not entered his appearance.

The petition is directed against the judgment and Award dated 19th February, 1994, passed by the Industrial Tribunal, Ahmedabad, in Reference IT No. 374/88. The facts leading to this petition are as under :

The petitioner is the Gujarat State Road Transport Corporation, a Government Corporation (hereinafter referred to as 'the Corporation'). The respondent is its workman who has been serving as a Conductor. On 15th September, 1984, when the workman was on duty on Visnagar-Ganputpura route, the bus was checked at Sadupala. Upon checking, the workman was found to have committed irregularity by collecting fare from 12 passengers and not issuing tickets to them. In respect of the said act of misconduct committed by the workman, a chargesheet was issued on 25th September, 1984. A disciplinary inquiry was held against the workman. The imputation of charge made against the workman having been proved, under order dated 11th January, 1985, he was dismissed from service. Thereafter on 11th February, 1985, the workman submitted his reply to the second show cause notice. Feeling aggrieved, the petitioner preferred a writ petition under Article 226 of the Constitution of India being Special Civil Application No. 155/85 before this court. Under the order dated 16th February, 1985, this court set aside the order of dismissal and directed the Corporation to consider the reply submitted by the workman and to take a decision afresh. Even after taking into consideration the reply submitted by the workman, under the order dated 1st April, 1985, he was dismissed from service. The said order was confirmed in the first departmental appeal. However, on second appeal to the appellate authority, the workman partially succeeded. Under order dated 8th May, 1987, made by the appellate authority, the order of dismissal of the workman was set aside. The workman was ordered to be reinstated in service and a punishment of reduction in pay by two stages was imposed. The interregnum period was ordered to be treated as leave without pay. Feeling aggrieved, the workman raised an industrial dispute, which was referred to the Tribunal and was registered as Reference (IT) No. 374/88 as aforesaid.

Before the Tribunal, the workman accepted the validity of the disciplinary action held against him and confined his challenge to the finding recorded by the Inquiry Officer and the punishment imposed by the second appellate authority. The learned Tribunal confirmed the finding of the workman having received money from the

passengers and not having issued tickets to the said passengers. The Tribunal, however, recorded a finding that the workman had issued tickets to three passengers who had got down at the first stop at village Sadupala. Besides, the bus was checked within 6 Kms. from the commencement of the journey and it was over-crowded. The Tribunal, therefore, appears to have given a benefit of doubt to the workman and held that the workman, possibly, had no intention not to issue tickets to the concerned passengers, or atleast, had no oblique intention. The Tribunal has also found that the workman's service record was not blemished. Keeping the above facts in view, the learned Tribunal, under the impugned order, set aside the order made by the appellate authority and directed the Corporation to pay wages to the workman for the interregnum period. Therefore, the petition.

Under order dated 12th July, 1995, the petition was admitted to final hearing, however, the interim relief was refused. In view of the fact that the interim relief has been refused to the Corporation and that the impugned order has been implemented, and in view of the passage of time of nearly 15 years from the date of the cause of action, I do not consider it to be expedient to interfere with the impugned judgment and Award in exercise of the supervisory powers under Article 227 of the Constitution of India at this belated stage.

Petition is, therefore, dismissed. Rule is discharged. The parties shall bear their own costs.

.....

JOSHI\*